

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEON A. STEWART,

Plaintiff,

vs.

DEPARTMENT OF CORRECTIONAL
SERVICE STAFF, SHERWOOD, Case
Mannerger; NEUJAHR, Case Mannerger;
SERA NELSON, Warden; CATHY SEARS,
Warden; TARGET BOYD, Warden; and M.
DICINI, Corporal;

Defendants.

4:22CV3104

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's responses, [Filing No. 8](#); [Filing No. 9](#), to the Court's Memorandum and Order dated July 18, 2022, [Filing No. 7](#), requiring Plaintiff to show cause for his failure to pay his initial partial filing fee of \$21.29 by the Court's July 14, 2022 deadline. In his response dated July 21, 2022, Plaintiff represents that he sent the payment of \$21.29 to the Court upon receiving the Court's June 14, 2022 Memorandum and Order, [Filing No. 6](#), granting his motion to proceed in forma pauperis. [Filing No. 8](#). In a second response filed on August 1, 2022, Plaintiff indicates to the Court that the Court did receive his payment of \$21.29 but mistakenly applied the payment to a past case filed by Plaintiff "against Kelly Steenbok." [Filing No. 9](#). Plaintiff attached a notice of overpayment for filing fees in the case of 8:16CV519 Deon A. Stewart v. Kelly Steenbok to his response indicating that the \$21.29 payment was refunded to Plaintiff. [Id. at 2](#).

The Court's review of the information presented by Plaintiff and its own records confirms that Plaintiff timely submitted payment of his initial partial filing fee for this

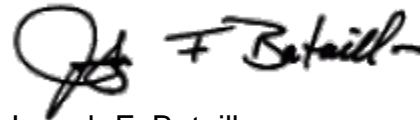
case, but the payment was mistakenly applied to the incorrect case (8:16CV519) and then refunded to Plaintiff. Accordingly, the Court will grant Plaintiff additional time to pay his initial partial filing fee.

IT IS THEREFORE ORDERED that:

1. Plaintiff has shown good cause why this case should not be dismissed for failure to pay the initial partial filing fee.
2. Plaintiff shall have until **September 22, 2022**, to pay his initial partial filing fee of \$21.29.¹
3. Plaintiff is advised that, following payment of the initial partial filing fee, the next step in Plaintiff's case will be for the Court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The Court will conduct this initial review in its normal course of business.
4. The Clerk of Court is directed to set a pro se case management deadline using the following text: **September 22, 2022**: initial partial filing fee payment due.

Dated this 23rd day of August, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon", with a stylized flourish at the end.

Joseph F. Bataillon
Senior United States District Judge

¹ On August 15, 2022, the Court received a partial filing fee payment of \$4.26, so Plaintiff need only submit an additional \$17.03 to satisfy payment of the initial partial filing fee.